

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 13-mc-51585
Honorable Victoria A. Roberts

v

ALAN LUCIA,

Defendant,

and

WELLS FARGO ADVISORS LLC,

Garnishee.

**ORDER DENYING DEFENDANT'S REQUEST FOR HEARING
ABOUT THE GARNISHMENT AND CLAIM FOR EXEMPTIONS**

Defendant filed a Request for Hearing About the Garnishment and Claim for Exemptions. As the Government points out, a hearing under the Federal Debt Collection Procedures Act, 28 USC § 3001, is limited to determining the validity of a claim for exemption, and the Government's compliance with statutory requirements. The Court finds no hearing is necessary.

Defendant's request is DENIED; the Defendant's interest in the Individual Retirement Account may be garnished as the Government requests until the debt in Case No. 09CR20311 01 is paid in full, or Mr. Lucia no longer has custody or control of the asset.

As part of his sentence on August 3, 2011, the Court ordered Mr. Lucia to make restitution to his victims under the Mandatory Victims Restitution Act. The Government is responsible to collect unpaid restitution under 18 USC §§ 3612 and 3613. The Government now

seeks to collect unpaid restitution by garnishing Mr. Lucia's Individual Retirement Account.

The Government provides ample support for its attempt to garnish this account. Pensions and annuity distributions and private individually funded retirement accounts are not exempt from garnishment. (*United States v DeCay*, 620 F.3d 534 (5th Cir. 2010); *United States v Novak*, 476 F.3d 1041 (9th Cir. 2007).

IT IS ORDERED.

S/Victoria A. Roberts

Victoria A. Roberts
United States District Judge

Dated: January 14, 2014

The undersigned certifies that a copy of this document was served on the attorneys of record and Alan Lucia by electronic means or U.S. Mail on January 14, 2014.

S/Holly A. Monda for Carol A. Pinegar
Deputy Clerk